

EMPLOYER STATUS DETERMINATION

Poseyville and Owensville Railroad Company, Inc.

This is the determination of the Railroad Retirement Board, concerning the continued status of Poseyville and Owensville Railroad Company, Inc. (PORC), B.A. No. 3359, as an employer under the Railroad Retirement Act (45 U.S.C § 231 et seq.)(RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.)(RUIA).

On January 21, 1991, PORC filed for an exemption to abandon its entire rail line. See, Interstate Commerce Commission (ICC) Finance Docket No. AB-363X, decided April 28, 1992. The eleven miles of railroad line located in Gibson and Posey Counties, Indiana extend from milepost 271.00 in Poseyville to milepost 282.2 in Owensville. In March 1993, PORC was placed into receivership by the Gibson County Superior Court, Gibson County, Indiana. Mr. Robert Musgrave was appointed as receiver for PORC. Pursuant to the terms of the court order entered on March 26, 1996, Mr. Musgrave agreed to sell PORC's rail line to RailAmerica, which, in turn, assigned its interest and rights to Owensville Terminal Company, Inc. (OTC), a railroad company found not to be a covered entity under the RRA and RUIA. On April 29, 1996, OTC filed a notice of exemption to acquire and operate PORC's rail line. See, Surface Transportation Board¹, STB Finance Docket No. 32899, decided April 29, 1996. The transaction between PORC and OTC was completed approximately April 19, 1996. PORC last filed an annual report in 1991 stating that it had zero employees.

Section 202.11 (20 CFR § 202.11) of the Board's regulations states:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

According to ICC Finance Docket No. AB-363X, PORC filed for an exemption to abandon its rail line. On or after April 19, 1996, OTC acquired and operated PORC's rail line. PORC filed an annual report in 1991 stating that it had zero employees. Since PORC no longer possess the characteristics of an operating railroad company covered under the Acts, PORC is no longer a covered employer under the RRA and RUIA.

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board.

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The Board therefore finds that effective, April 19, 1996, the date OTC acquired the rail line from PORC, Poseyville & Owensville Railroad Company ceased being a covered employer under the RRA and RUIA.

Glen L. Bower

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TO : The Board

FROM : Catherine C. Cook
General Counsel

SUBJECT : Coverage Determination
Poseyville & Owensville Railroad Company, Inc.

Attached is a proposed coverage ruling for Board approval.

Attachment